

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

MARK EDWARD LILEY

PLAINTIFF

v.

Civil No. 06-3058

SGT. M. LOTT; LT. BETH REELY;
ROBERT JOHNSON; TIM SMITH;
DAVID DEATHERAGE; and BOBBY
SMITH

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Mark Edward Liley filed this civil rights action on September 15, 2006. He proceeds *pro se* and *in forma pauperis*.

When he filed the action, plaintiff was incarcerated at the Carroll County Detention Center (Doc. 1). Plaintiff notified the court on November 13, 2006 of a change of address. However, on December 29, 2006, mail was returned as “undeliverable” when sent to the new address. Plaintiff has not further notified the court of a change in address. According to information available on the Arkansas JusticeXchange website, www.justicexchange.com, Plaintiff’s current custody status is unknown.

On March 25, 2007, Defendants filed a motion to dismiss and brief in support (Doc. 18 and 19). In their motion and brief, Defendants indicate Plaintiff has failed to respond to discovery requests. Defendants indicate they have been unable to correspond with the Plaintiff regarding his past due discovery responses because all mail sent to the Plaintiff at the address entered as a change of address on November 13, 2006 (Doc. 12) has been returned as undeliverable. Plaintiff has not communicated with the court in anyway.

I therefore recommend that this case be dismissed based on plaintiff's failure to obey the orders of the court and his failure to prosecute this action. Fed. R. Civ. P. 41. **The parties have ten days from receipt of the report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.**

DATED this 1st day of June 2007.

/s/ *J. Marschewski*

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE